

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DISTRICT

LARRY L. CARRUTH

PLAINTIFF

V.

CIVIL ACTION NO. 3:14-CV-507-WHB-RHW

JVT ADVISORS,
MORPHOTRUST USA, INC.,
and ALBERT EARL SANTA CRUZ, IN HIS INDIVIDUAL CAPACITY DEFENDANTS

DEFENDANT ALBERT SANTA CRUZ'S MOTION TO DISMISS

COMES NOW Defendant, Albert Santa Cruz, in his individual capacity, by and through counsel, and files this Motion to Dismiss, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and would show unto the Court as follows:

1. Plaintiff's First Amended Complaint fails to state a claim upon which relief may be granted against Santa Cruz in his individual capacity.
2. As for Plaintiff's federal claims, Santa Cruz is entitled to the protections afforded by the doctrine of qualified immunity.
3. As for Plaintiff's state-law claims, Plaintiff failed to comply with the notice requirements of the Mississippi Tort Claims Act and, in any event, Santa Cruz is statutorily immune from suit.

WHEREFORE, PREMISES CONSIDERED, Defendant Albert Santa Cruz moves the Court to grant this Motion to Dismiss and to dismiss the First Amended Complaint filed against him in this action. Santa Cruz prays for such other and further relief as may be deemed appropriate.

RESPECTFULLY SUBMITTED, this the 7th day of October, 2014.

**MISSISSIPPI DEPARTMENT OF HUMAN
SERVICES, Defendant**

**BY: JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

BY: *s/ Malissa Wilson*
MALISSA WILSON, MB No. 100751
SPECIAL ASSISTANT ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I, Malissa Wilson, Special Assistant Attorney General for the State of Mississippi, do hereby certify that on this date I caused to be electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification to all registered attorneys of record.

THIS the 7th day of October, 2014.

s/ Malissa Wilson
MALISSA WILSON